



U.S. Department of Housing and Urban Development
Buffalo Office
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June 21, 2012

The Honorable Byron W. Brown
Mayor, City of Buffalo
920 City Hall –Room 201
Buffalo, NY 14202-3376

SUBJECT: Transfer of HUD Community Planning and Development (CPD) Grant Accounts (CDBG, ESG, HOME and HOPWA) from the Buffalo Urban Renewal Agency (BURA) to the City of Buffalo.

Dear Mayor Brown:

This is a follow-up to our letter of April 30, 2012, which informed you of the need to transfer direct control over HUD Community Planning and Development (CPD) grant programs, from the Buffalo Urban Renewal Agency (BURA) to the City of Buffalo. The principal change requires that the City assume from BURA the responsibility and accountability for the day-to-day management and financial controls of its CPD program grants. The Buffalo Field Office will work closely with the City to ensure a smooth transition. The following outlines the next steps that need to be taken to complete this transition.

I. Financial Management

As noted in our previous correspondence, CPD program grant funds can no longer be deposited directly into accounts controlled by BURA. The Line of Credit Control System (LOCCS) is the Department's primary system for processing and making grant, loan, and subsidy disbursements to grant recipients. HUD uses the Integrated Disbursement and Information System (IDIS) as the interface between grantees and LOCCS, and LOCCS is used to disburse and track the payment of CDBG grant funds to grantees. As the grantee, the City needs to take immediate steps to submit appropriate information and establish City-controlled depository accounts, along with an internal control structure meeting Federal requirements.

HUD will not be able to establish the line of credit for CPD funding covered by the City's 2012 Annual Action Plan, until the new arrangements are in place. The city will also need to submit to HUD the city's tax identification number (TIN), the city's DUNS number, and city depository account information, because HUD can no longer use the numbers and accounts associated with BURA. This information should be submitted to HUD by August 1, 2012 so that the 2012 grant agreements can be issued in a timely manner. Please refer to Attachment C for more information on this step.

Also, to further ensure direct control of HUD program funds, all program income funds currently held by BURA or by BURA subrecipients must be turned over to the city and maintained in city bank accounts dedicated to use for HUD program activities. No later than September 30, 2012, the city will be required to perform a reconciliation of program income balances controlled by BURA and returned to city control, and submit confirmation to HUD.

This should be accompanied by a certification to HUD by the BURA Chairperson that all such program income has, in fact, been returned to the City of Buffalo, and a description of how new internal controls for the drawdown and use of HUD funds meet the requirements of 24 CFR Part 85.

HUD will establish verification and approval process for any draws from the U.S. Treasury Line of Credit Control System (LOCCS). HUD will place edits on open CDBG grants. In addition, the city will need to submit, on a monthly basis, a certification that all HUD CPD program income, including program income in revolving loan funds, received and/or spent during that month have been properly reported in IDIS. It is critical to note that throughout the period that an edit remains in place, CDBG funds remain available to the city in LOCCS to draw down for allowable expenses once verified through the submission of required supporting documentation when appropriate. At no time does a LOCCS edit serve to terminate a grant agreement, or de-obligate or reallocate CPD funds. Nor does a LOCCS edit suspend the city's access to its CPD funds in LOCCS. It simply requires an additional layer of HUD verification before the disbursement of CPD funds from LOCCS to the city. Where drawdown requests are properly supported by documentation, HUD will disburse the funds to the city's bank account.

Until the balances for grants already awarded to the city have been converted to direct access by the city, BURA will continue to have direct access to these funds. This should enable BURA to meet existing contractual obligations in the interim. Once IDIS access and bank routing has been successfully transferred from BURA to the city (transfer of administrative rights/controls, and authorization to initiate and/or approve drawdowns have been transferred from BURA to city employees; bank accounts have been opened and funds transferred from BURA to city accounts for all four CPD formula programs' funding; and the associated record and IDIS access numbers have been confirmed), the Buffalo Field Office will be prepared to approve the city's IDIS voucher drawdowns within 30 days.

II. Grant Program Oversight

The city is required to have a lead role in management of CPD grant programs, though BURA can continue to be utilized to a certain extent, as discussed below. HUD recognizes that program expertise has resided in BURA staff to a great extent. HUD is prepared to provide technical assistance that includes assessing existing structures and staffing, and making recommendations for optimizing available staff resources. Staff training will also be offered, as needed.

A. CDBG and HOME

If the city wishes to continue to use BURA to administer activities for these two programs, the respective program regulations include provisions for use of a subrecipient to carry out/administer programs on behalf of a grantee (i.e., the City of Buffalo). Please remember, however, that BURA and city administrative costs, combined, will be subject to the respective program caps on administration costs.

Under the CDBG program regulations at 24 CFR 570.501(b), the city is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The HOME program regulations at 24 CFR 92.504(a) include a similar statement applicable to administration of the HOME program. Even though CDBG and HOME eligible activities may be undertaken by local public agencies designated by the Mayor, pursuant to §570.501(a) and §92.504(a), the use of designated public agencies does not relieve the city of this responsibility. Further, a designated public agency is also subject to the same CDBG and HOME program requirements as those that are applicable to subrecipients. For both the CDBG and HOME programs, the city's responsibilities, as grant recipient, include determining the adequacy of performance under subrecipient agreements and procurement contracts, and for taking appropriate action when performance problems arise. This includes pursuing the remedial actions outlined in the CDBG and HOME subrecipient agreements, the contents of which are prescribed in §570.503 and §92.504(c)(2).

The city may continue to use BURA to manage its CPD activities. However, the city is required to execute a subrecipient agreement with BURA in accordance with 24 CFR 570.503 for its CDBG grants and 24 CFR 92.504 for its HOME grants. A written agreement is required to have been executed before any funds are disbursed to a subrecipient. The agreement must remain in effect during any period that the BURA has control over of CDBG or HOME funds, including program income. In order to bring its program into compliance, the city is advised to take the following steps:

1. Submit its proposed BURA subrecipient agreements to this office within 30 days of the date of this letter. The Buffalo Field Office will notify the city once we have accepted the city's agreements as being compliant with program requirements. The city should not move to execute subrecipient agreements until it has been so notified by this office.
2. The city may not obligate any FY2012 CDBG or HOME funds to BURA, and BURA may not obligate any funds or initiate any activities with FY 2012 activities, until there is a subrecipient agreement, acceptable to HUD, executed between the city and BURA.
3. For FY 2011 and earlier grants, BURA may not initiate any new activities or obligate any additional money from prior year grants after July 1, 2012 until there is a subrecipient agreement, acceptable to HUD, executed between the city and BURA.
4. In the short term, BURA can continue to manage its existing activities and to draw down and disburse funds. However, the city must move to execute a subrecipient agreement with BURA, acceptable to HUD, covering these existing activities. Within 30 days of the date that HUD notifies the city that IDIS access and the depository accounts have been changed from BURA to the City of Buffalo, the city is to execute a subrecipient agreement with BURA for existing activities.

This phased approach will allow BURA to continue to implement existing activities and to access funds during the transition to the city's control. At the same time, it will ensure that existing activities are promptly brought into compliance with program requirements regarding the use of subrecipients, and it will ensure that all future activities will be compliant with these requirements from their outset.

Further, as has been demonstrated through past experience with subrecipient-managed activities or programs, it is imperative that there be an adequate structure in place to oversee BURA's performance. Thus, program expertise (e.g., staff who are familiar with HUD program

rules and regulations) must reside within city government, and not just BURA, as the city must have effective control and management of BURA. Accordingly, the city will need to submit a detailed description of the proposed subrecipient management structure, within 30 days of the date of this letter, along with the proposed CDBG and HOME agreement(s) with BURA. This should include: a current organizational chart of BURA, indicating, for each CPD grant program (CDBG, HOME, ESG, and HOPWA) who has been managing current CPD formula grant funds heretofore; a current organizational chart of the city department that will manage these same HUD programs; and an outline or flow chart of procedures that will be followed by city and BURA staff for program management and implementation.

To assist the city during this transition, we are enclosing guidance for general grant administration and subrecipient oversight. This includes a grant administration manual for the CDBG program, a guide to establishing and maintaining effective subrecipient oversight, developed for the CDBG program.

B. ESG and HOPWA

Because regulatory provisions that would apply to BURA administration of these programs are substantially different, management of these two programs will be discussed under separate cover.

Should the city need additional clarification regarding this management transition, please contact me directly, or Ms. Peggy Meinel, CPD Program Manager, at (716) 551-5755 x5806.

Sincerely,

/s/ William T. O'Connell

William T. O'Connell
 Director
 Community Planning and
 Development Division

cc: Mark J.F. Schroeder, City Comptroller,
 Richard A. Fontana, President of Buffalo Common Council
 Brendan Mehaffey, Executive Director Office of Strategic Planning
 Scott Billman, General Counsel

Enclosures

Attachment A: Grant Administration manual;
 Attachment B: Guide to Establishing and Maintaining Effective Subrecipient Oversight – to be used to prepare Subrecipient Agreement with BURA;
 Attachment C: Steps to manage the programmatic and financial management;
 Attachment D: Chart of CPD Grants – to be completed with names of City Staff Project;